

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

INSTITUTE FOR CREATION RESEARCH GRADUATE SCHOOL, etc., <i>Plaintiff,</i> v. TEXAS HIGHER EDUCATION COORDINATING BOARD, et al., Defendants.	§ § § § § § §	CIVIL ACTION NO.      1:09-CV-382 SS
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**Plaintiff's List of Trial Exhibits**

TO THE HONORABLE SAM SPARKS, U.S. DISTRICT JUDGE PRESIDING:

Now comes the Institute for Creation Research Graduate School ("ICRGS"), plaintiff, and files this List of Trial Exhibits, many of which are Bates-stamp-numbered by THECB in a related SOAH<sup>1</sup> proceeding.

**I.**

Plaintiff's trial exhibits (with Bates-stamp identification in the related SOAH proceeding indicated by "SOAH" followed by a series of numbers), for its case in chief, may include:

1. ICRGS's July 2007 application to THECB, for a THECB-issued Certificate of Authority to offer a program for (and confer in and from Texas) a Master of Science degree, with an academic major in Science Education [SOAH 1-233];
2. Report of Evaluation of ICRGS's July 2007 application [SOAH 234-244];
3. ICRGS's initial response (of 12-14-2008) to the Report of Evaluation of ICRGS's July 2007 application [SOAH 245-275];

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<sup>1</sup> "SOAH" = Texas State Office of Administrative Hearings (Docket # 781-09-2910).

4. ICRGS's March 2008 "Progress Report", provide to amend and supplement its original application of July 2007 [SOAH 276-299];
5. *ex parte* Report of Dr. Gerald Skoog of Texas Tech, dated 4-10-2008 [SOAH 300-326];
6. internal THECB Recommendation authored by Dr. Joe Stafford, dated 4-18-2008 [SOAH 327-470];
7. Commissioner Raymund Paredes' pre-hearing-authored Recommendation on the Request by the Institute for Creation Research for a Certificate of Authority to Offer a Master of Science Degree in Science Education (*sometimes abbreviated herein as* "Commissioner's Recommendation"), dated 4-23-2008 [Bates 471-475];
8. Commissioner Paredes letter dated 5-21-2008, on behalf of THECB, unto ICR, denying ICRGS's request for a THECB-issued Certificate of Authority to award a Master of Science degree in Science Education [Bates 476-477];
9. ICRGS's "Petition for Contested Case Status" (*sometimes abbreviated as* "SOAH Petition"), submitted to THECB on or about 5-24-2008 [Bates 478-544], not including the SOAH Petition's attached Appendices "A" through "Z", which appendices should be identified as Bates "544-A-(page numbering within SOAH Petition Appendix A)", Bates "544-B-(page numbering within SOAH Petition Appendix B)", Bates "544-C-(page numbering within SOAH Petition Appendix C)", etc., etc., etc., through Bates "544-Z-(page numbering within SOAH Petition Appendix Z)";

10. ICRGS's First Supplement to its "Petition for Contested Case Status" (*sometimes abbreviated herein as ICRGS's "First Supplement to SOAH Petition"*), submitted to THECB on or about 5-24-2008 [Bates 545-549];
11. ICRGS's Second Supplement to its "Petition for Contested Case Status" (*sometimes abbreviated herein as ICRGS's "Second Supplement to SOAH Petition"*), submitted to THECB on or about 5-24-2008 [Bates 550-554];
12. SOAH Stipulation between THECB and ICRGS (dated 6-24-2009), regarding authentication of various TEHCB documents and also stipulating that ICR had not accepted any direct funding from the Texas state government, or any Texas-administered direct federal funding, as of April 2008;
13. Skoog Affidavit in SOAH proceeding, dated 6-12-2009;
14. 1<sup>st</sup> Affidavit of Dr. Patricia Nason, filed in SOAH (Dkt. # 781-09-2910) and also as filed on 10-12-2009 as an exhibit attached to ICRGS's 1<sup>st</sup> Amended Complaint in N.D. Tex.—Dallas case 3:09-CV-693-B.

## II.

Also, several trial exhibits may be books or DVDs used by ICRGS and/or authored by ICRGS faculty. For example, books and/or DVDs which were authored, co-authored, or other otherwise featured a ICRGS-listed trial witness (with such listed witnesses being designated hereinbelow by an asterisk) may be used at trial, so that more detailed testimony may be summarized by citation/reference to a particular book or DVD (e.g., Dr. Austin may testify

about any of his Grand Canyon books and/or about his Mount St. Helens DVD; Frank Sherwin may testify about his book *The Ocean Book* in conjunction with him testifying about his teaching at the postsecondary level; etc.).

15. Frank Sherwin, The Ocean Book
16. Frank Sherwin, Gary Parker, et al., God of Wonders
17. John Morris, The Geology Book
18. John Morris, The Young Earth (revised ed.)
19. Steve Austin, Grand Canyon, Monument to Catastrophe
20. Steve Austin, Geologic Evidences to the Very Rapid Strata Deposition in the Grand Canyon DVD
21. Steve Austin, John Morris, et al., Grand Canyon: Monument to the Flood DVD
- 22 & 23. Larry Vardiman, et al., Radioisotopes and the Age of the Earth, vols. 1 & 2
24. Larry Vardiman, et al., RATE Premier Conference DVD
25. John Morris & Steve Austin, Footprints in the Ash
26. John Whitcomb & Henry Morris, The Genesis Flood<sup>2</sup>
- 27 & 28. ICR (Patti Nason et al.), Origin of Life Teacher Resources (DVD & classroom materials for Christian school teachers who are teaching science topics)
29. Henry Morris, Scientific Creationism

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<sup>2</sup> This classic 1961 treatise on the worldwide Flood (i.e., the flood summarized in Genesis chapters 6-9, and alluded to by Christ Himself in Luke 17:26-27 and Matthew 24:37-38), is regarded by many as the primary catalyst for the modern-day revival in young-earth creationist science and science education. Its co-author, the late Dr. Henry Morris (II), founded ICR about 40 years ago, and ICRGS in 1981. Due to his death, others (e.g., his sons Dr. Henry Morris III and Dr. John Morris, as well as Dr. Patricia Nason, Dr. Steve Austin, etc.) will testify about this book's message and its relevance to the institutional viewpoint of ICRGS, especially as related to ICRGS's *Master of Science* program in Science Education.

30. Larry Vardiman, A New Theory of Climate Change
31. Larry Vardiman\*, Climate Changes Before and After the Genesis Flood
32. Larry Vardiman\*, et al., Global Warming DVD
33. John Morris\* et al., The Mysterious Islands DVD
34. John Morris\*, et al., A Walk Through History DVD
35. Duane Gish, Evolution: The Fossils Still Say No!
36. Christine Dao, Thinking God's Thoughts After Him<sup>3</sup>
- 37, 38, & 39. Donald DeYoung, et al., Thousands Not Billions (book, study guide, and DVD, regarding radiometric dating science)
40. Steve Austin, et al., Mount St. Helens Explosive Evidence for Catastrophe DVD
- 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, & 53. 13 DVDs used by Dr. Steven A. Austin in conjunction with teaching ICRGS's course on *Natural Disasters* ( GE 501 ).<sup>4</sup>

### III.

Now ICRGS has already filed (or served as discovery/disclosure documents) several affidavits and declarations (under 28 U.S.C. § 1746), which provide informational statements (both as to facts and opinions) by ICRGS witnesses (e.g., "1<sup>st</sup> Declaration of Dr. Randy Guliuzza, about Medical M.R.I. Usage in Medical Science", sent to defense att'y Dahlberg 12-3-2009). Such declarations and affidavits (e.g., # 14 above) may be used, if helpful, e.g., pursuant to F.R.Evid. Rules 612, 613, 801(d)(1)(B), and/or 803(5).

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<sup>3</sup> This book provides illustrations of how the foundations of modern science were dominated by scientists who held beliefs that today would be called "Biblical creationist" in viewpoint.

<sup>4</sup> which involves usage of the DVDs for Modules 1-9, 10a, 10b, 10c, and Module 2 appendices.

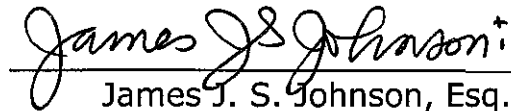
**IV.**

ICRGS may use any exhibit listed on defendants' trial exhibit list.

**V.**

ICRGS reserves the right to amend and/or supplement this exhibit list.

Respectfully submitted,

 James J. S. Johnson, Esq.

Texas Bar # 10741520 Special counsel

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**CERTIFICATE REGARDING SERVICE**

I hereby certify that on the 7<sup>th</sup> day of December, A.D. 2009, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following attorney (and thereby to the Texas Attorney General's Office):

**Shelley Dahlberg, Esq.,** *Attorney of record for Defendants*

Assistant Attorney General, Texas Attorney General's office, General Litigation Div.

P.O. Box 12548, Capitol Station, Austin, Texas 78711-2548

 Certifying attorney for plaintiff